

Senate Bill No. 1206

Passed the Senate August 29, 2006

Secretary of the Senate

Passed the Assembly August 24, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 33030, 33031, 33320.1, 33328.7, 33352, 33367, 33378, 33445, 33485, 33486, 33500, and 33501 of, and to add Sections 33328.1, 33360.5, 33451.5, 33501.1, 33501.2, 33501.3, and 33501.7 to, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1206, Kehoe. Redevelopment.

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities in order to address the effects of blight in those communities and defines a blighted area as one that is predominantly urbanized and characterized by specified conditions.

This bill would revise the definition of “predominantly urbanized” and revise the conditions that characterize a blighted area. The bill would prohibit the inclusion of nonblighted parcels in a redevelopment project area for the purpose of obtaining property tax revenue from the area without substantial justification for their inclusion.

(2) Under existing law, county officials are charged with the responsibility of allocating taxes levied upon the taxable property in a redevelopment project each year by or for the benefit of specified state or local taxing agencies and are required to prepare and deliver to the redevelopment agency and each of the taxing agencies a specified report that contains, among other information, the total assessed valuation of all taxable property within the redevelopment project area as shown on the base year assessment roll, the identifications of each taxing agency levying taxes in the project area, and the amount of tax revenue to be derived by each taxing agency from the base year assessment roll from the project area, including state subventions for homeowners, business inventory, and similar subventions. Existing law also requires a redevelopment agency to reimburse a county for costs incurred by the county in preparing the reports.

This bill would require these county officials to prepare and deliver a specified report to the Department of Finance that

would, in addition to the information specified above, contain specified projections of these tax revenues and would also require the redevelopment agency to prepare and deliver an additional, specified report to the Department of Finance when the agency transmits the map of the project area, as specified. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

The bill would require that the redevelopment agency also reimburse a school district, a county office of education, or a community college district for the preparation of any of these specified reports.

(3) Existing law requires that every redevelopment plan submitted by a redevelopment agency to the legislative body of the local agency contain a report with specified information, including a description of the physical and economic conditions that cause the project area to be blighted.

This bill would require that the description contain specific, quantifiable evidence that documents specified physical and economic conditions in the project area.

(4) Existing law requires the legislative body to consider the adoption of a redevelopment plan submitted by the redevelopment agency at a public hearing.

This bill would require the redevelopment agency, no later than 45 days prior to the hearing, to deliver a copy of the preliminary report and notice of the date of the hearing to the Department of Finance and the Department of Housing and Community Development for an estimate of the proposed plan's effect upon the General Fund.

(5) Existing law specifies the contents of the ordinance adopting a redevelopment plan, including the findings and determinations of the legislative body about the blighted area that is to be redeveloped.

This bill would require the findings to be based on clearly articulated and documented evidence, and would add an additional finding and determination that the implementation of the redevelopment plan will improve the physical and economic conditions of blight in the project area.

(6) Existing law makes an ordinance that adopts, modifies, or amends a redevelopment plan subject to referendum and requires the referendum petitions circulated in cities and counties over

500,000 population be submitted to the clerk of the legislative body within 90 days of the adoption of the ordinance subject to referendum.

This bill would, notwithstanding any other provision of law, make this 90-day requirement applicable to all cities and counties.

(7) Existing law prohibits a redevelopment agency from using tax increment funds for the construction or rehabilitation of a city hall or county administration building.

This bill would include land acquisition, related site clearance, and design costs in the prohibition against using tax increment funds for the construction of a city hall or county administration building.

(8) Existing law requires the redevelopment agency to hold a public hearing on a proposed amendment of the redevelopment plan before recommending the amendment.

This bill would require the agency, no later than 45 days prior to the public hearing, to notify the Department of Finance and the Department of Housing and Community Development of the hearing and the proposed amendment and to prepare a report containing specified information about the proposed amendment. The bill would also require the Department of Finance to estimate certain effects of the proposed amendment. These requirements would apply only if the proposed amendments would make any one of 6 specified changes to the redevelopment plan.

(9) Existing law authorizes a redevelopment agency to merge project areas under its jurisdiction without regard to contiguity of the areas.

This bill would require the legislative body of the redevelopment agency that intends such a merger to find, based on substantial evidence, that significant blight remains within one of the project areas and that the blight cannot be eliminated without the merger.

(10) Existing law authorizes the bringing of a civil action to determine the validity of proceedings taken by a legislative body related to the establishment of a redevelopment agency and specified actions taken by a redevelopment agency and makes the Department of Finance an interested person in action brought

with regard to the validity of an ordinance adopting a redevelopment plan.

This bill would permit the civil action to be commenced within 90 days from the date of the decision of the legislative body or redevelopment agency and would also make the Attorney General an interested person in a civil action brought to determine the validity of these matters. The bill would authorize the Attorney General to intervene as of right in these civil actions.

The bill would prohibit an action from being brought against a redevelopment agency or legislative body unless the grounds for noncompliance with the Community Redevelopment Law are presented to the agency or legislative body orally or in writing before the close of the required public hearing.

The bill would require any party filing a pleading or brief in an action challenging the validity of a finding and determination that the project area is blighted to serve a copy of the pleading or brief on the Attorney General and would prohibit a court from granting relief to a party unless proof is filed with the court that the party has complied with this requirement.

The bill would prohibit a redevelopment agency or legislative body from permitting or requiring a property owner or real party in interest to indemnify the agency or legislative body against these civil actions as a condition of adopting or amending a redevelopment plan.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. In enacting this act, the Legislature finds and declares all of the following:

(a) The United States Supreme Court's ruling in *Kelo v. City of New London*, 125 S.Ct. 2655 (2005), noted that many states

already impose “public use” requirements on the power of eminent domain that are stricter than the federal baseline. Some states have eminent domain statutes that carefully limit the grounds upon which takings may be exercised. The Supreme Court specifically noted that under California’s redevelopment law local officials may only take land for economic development purposes in blighted areas. The Kelo decision also noted that the Court’s opinion does not preclude a state from placing further restrictions on the exercise of the taking of power.

(b) The Senate Local Government Committee held a hearing on August 15, 2005, in Sacramento that explored how the Kelo decision affects California’s local governments. On October 26, 2005, the Senate Local Government Committee, the Senate Transportation and Housing Committee, the Assembly Housing and Community Development Committee, and the Assembly Local Government Committee held a joint hearing in San Diego that examined redevelopment law and practices, focusing particularly on the statutory definition of blight. On November 15, 2005, the Senate Local Government Committee, the Senate Transportation and Housing Committee, the Assembly Housing and Community Development Committee, the Assembly Local Government Committee, and the Assembly Judiciary Committee held a joint hearing in Sacramento that examined the policy questions that surround how redevelopment officials use their eminent domain powers as well as recommendations for reforms to the state laws that govern community redevelopment agencies.

(c) These hearings allowed legislators to review the statutory changes enacted by the Community Redevelopment Law Reform Act of 1993, Chapter 942 of the Statutes of 1993. The hearings also permitted legislators to review the subsequent appellate court decisions that interpreted those statutory changes, particularly the opinions relating to the statutory definition of blight. As a result of those reviews, several legislators believe that they should propose additional reforms to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

(d) In *Regus v. City of Baldwin Park* (1977) 70 Cal.App.3d 968, the court warned that by “misemploying the extraordinary powers of urban renewal a redevelopment agency captures pending tax revenues which it can then use as a grubstake to

subsidize commercial development within the project area in the hope of striking it rich.” In *Emmington v. Solano County Redevelopment Agency* (1987) 195 Cal.App.3d 491, the court declared that “the blighted condition of the area is the very basis of the redevelopment agency’s jurisdiction to acquire the property by eminent domain and expend public funds for its redevelopment.” In *Beach-Courchesne v. City of Diamond Bar* (2000) 82 Cal.App.4th 511, the court declared that the “determination of blight is a prerequisite to invoking redevelopment.”

(e) It is the intent of the Legislature, in amending Sections 33030, 33031, 33320.1, 33333.6, 33352, 33367, 33485, and 33486 of the Health and Safety Code to restrict the statutory definition of blight and to require better documentation of local officials’ findings regarding the conditions of blight. The legislative purpose of these statutory amendments is to focus public officials’ attention and their extraordinary redevelopment powers on properties with physical and economic conditions that are so significantly degraded that they seriously harm the prospects for physical and economic development without the use of redevelopment.

(f) It is the intent of the Legislature, in amending Sections 33328.7, 33378, 33500, and 33501 of, and adding Sections 33328.1, 33360.5, 33451.5, 33501.1, 33501.2, 33501.3, and 33501.7 to, the Health and Safety Code, to lower the barriers to challenge local officials’ decisions regarding redevelopment and, in particular, to increase the opportunities to review local officials’ findings regarding the conditions of blight. The legislative purpose of these statutory amendments and additions is to increase the opportunities for oversight of redevelopment activities by property owners, residents, voters, the Attorney General, and other public agencies and officials.

(g) It is the intent of the Legislature that the statutory changes made by the act be liberally construed to effectuate their purposes.

SEC. 2. Section 33030 of the Health and Safety Code is amended to read:

33030. (a) It is found and declared that there exist in many communities blighted areas that constitute physical and economic liabilities, requiring redevelopment in the interest of the health,

safety, and general welfare of the people of these communities and of the state.

(b) A blighted area is one that contains both of the following:

(1) An area that is predominantly urbanized, as that term is defined in Section 33320.1, and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(2) An area that is characterized by one or more conditions set forth in any paragraph of subdivision (a) of Section 33031 and one or more conditions set forth in any paragraph of subdivision (b) of Section 33031.

(c) A blighted area that contains the conditions described in subdivision (b) may also be characterized by the existence of inadequate public improvements or inadequate water or sewer utilities.

SEC. 3. Section 33031 of the Health and Safety Code is amended to read:

33031. (a) This subdivision describes physical conditions that cause blight:

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect, construction that is vulnerable to serious damage from seismic or geologic hazards, and faulty or inadequate water or sewer utilities.

(2) Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions may be caused by buildings of substandard, defective, or obsolete design or construction given the present general plan, zoning, or other development standards.

(3) Adjacent or nearby incompatible land uses that prevent the development of those parcels or other portions of the project area.

(4) The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired

by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions.

(b) This subdivision describes economic conditions that cause blight:

(1) Depreciated or stagnant property values.

(2) Impaired property values, due in significant part, to hazardous wastes on property where the agency may be eligible to use its authority as specified in Article 12.5 (commencing with Section 33459).

(3) Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings.

(4) A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.

(5) Serious residential overcrowding that has resulted in significant public health or safety problems. As used in this paragraph, “overcrowding” means exceeding the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of Title 25 of the California Code of Regulations.

(6) An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant in public health, safety, or welfare problems.

(7) A high crime rate that constitutes a serious threat to the public safety and welfare.

SEC. 4. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. (a) “Project area” means, except as provided in Section 33320.2, 33320.3, 33320.4, or 33492.3, a predominantly urbanized area of a community that is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and that is selected by the planning commission pursuant to Section 33322.

(b) As used in this section, “predominantly urbanized” means that not less than 80 percent of the land in the project area is either of the following:

(1) Has been or is developed for urban uses.

(2) Is an integral part of one or more areas developed for urban uses that are surrounded or substantially surrounded by parcels that have been or are developed for urban uses. Parcels separated by only an improved right-of-way shall be deemed

adjacent for the purpose of this subdivision. Parcels that are not blighted shall not be included in the project area for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion.

(c) For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner that is consistent with zoning standards or is otherwise permitted under law.

(d) The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area that is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

SEC. 5. Section 33328.1 is added to the Health and Safety Code, to read:

33328.1. (a) When the county officials charged with the responsibility of allocating taxes pursuant Sections 33670 and 33670.5 deliver the report required pursuant to Section 33328, they shall also prepare and deliver to the Department of Finance, in the form and manner prescribed by the department, a report that includes all of the following:

(1) The information specified in subdivisions (a), (b), and (c) of Section 33328.

(2) A projection of the total amount of tax revenues that may be allocated pursuant to Sections 33670 and 33670.5 for the duration of the project area.

(3) A projection of the amount of tax revenues that would have been allocated to each school district, county office of education, and community college district for the duration of the project area, but for the allocation of tax revenues pursuant to Sections 33670 and 33670.5.

(4) A projection of the amount of tax revenues that may be allocated to each school district, county office of education, and community college district pursuant to Sections 33401, 33607.5, 33607.7, and 33676 for the duration of the project area.

(b) When the redevelopment agency transmits the map of the project area pursuant to Section 33327, the agency shall also prepare and deliver to the Department of Finance, in the form

and manner prescribed by the department, a report that includes all of the following:

(1) A projection of any change in the number of residents, including, but not limited to, the number of schoolage children, within the project area for the duration of the project area.

(2) A projection prepared by each school district, county office of education, and community college district within the project area of any change in the need for school facilities within the project area for the duration of the project area.

SEC. 6. Section 33328.7 of the Health and Safety Code is amended to read:

33328.7. Any costs incurred by a county, a school district, a county office of education, or a community college district, in preparing a report pursuant to Section 33328, 33328.1, 33328.3, or 33328.5, shall be reimbursed by the redevelopment agency which filed for the report as provided in those sections. In the event a final redevelopment plan is adopted for all or a portion of the project area concerning which the report is prepared, the agency may charge and account for the reimbursed costs as a cost of the redevelopment project. Otherwise these costs shall be accounted for as general administrative expenses of the agency.

SEC. 7. Section 33352 of the Health and Safety Code is amended to read:

33352. Every redevelopment plan submitted by the agency to the legislative body shall be accompanied by a report containing all of the following:

(a) The reasons for the selection of the project area, a description of the specific projects then proposed by the agency, a description of how these projects will improve or alleviate the conditions described in subdivision (b).

(b) A description of the physical and economic conditions specified in Section 33031 that exist in the area that cause the project area to be blighted. The description shall include a list of the physical and economic conditions described in Section 33031 that exist within the project area and a map showing where in the project the conditions exist. The description shall contain specific, quantifiable evidence that documents both of the following:

(1) The physical and economic conditions specified in Section 33031.

(2) That the described physical and economic conditions are so prevalent and substantial that, collectively, they seriously harm the entire project area.

(c) An implementation plan that describes specific goals and objectives of the agency, specific projects then proposed by the agency, including a program of actions and expenditures proposed to be made within the first five years of the plan, and a description of how these projects will improve or alleviate the conditions described in Section 33031.

(d) An explanation of why the elimination of blight and the redevelopment of the project area cannot reasonably be expected to be accomplished by private enterprise acting alone or by the legislative body's use of financing alternatives other than tax increment financing.

(e) The proposed method of financing the redevelopment of the project area in sufficient detail so that the legislative body may determine the economic feasibility of the plan.

(f) A method or plan for the relocation of families and persons to be temporarily or permanently displaced from housing facilities in the project area, which method or plan shall include the provision required by Section 33411.1 that no persons or families of low and moderate income shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by the displaced person or family at rents comparable to those at the time of their displacement.

(g) An analysis of the preliminary plan.

(h) The report and recommendations of the planning commission.

(i) The summary referred to in Section 33387.

(j) The report required by Section 65402 of the Government Code.

(k) The report required by Section 21151 of the Public Resources Code.

(l) The report of the county fiscal officer as required by Section 33328.

(m) If the project area contains low- or moderate-income housing, a neighborhood impact report which describes in detail the impact of the project upon the residents of the project area and the surrounding areas, in terms of relocation, traffic circulation, environmental quality, availability of community

facilities and services, effect on school population and quality of education, property assessments and taxes, and other matters affecting the physical and social quality of the neighborhood. The neighborhood impact report shall also include all of the following:

(1) The number of dwelling units housing persons and families of low or moderate income expected to be destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project.

(2) The number of persons and families of low or moderate income expected to be displaced by the project.

(3) The general location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413.

(4) The number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, other than replacement housing.

(5) The projected means of financing the proposed dwelling units for housing persons and families of low and moderate income planned for construction or rehabilitation.

(6) A projected timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives.

(n) (1) An analysis by the agency of the report submitted by the county as required by Section 33328, which shall include a summary of the consultation of the agency, or attempts to consult by the agency, with each of the affected taxing entities as required by Section 33328. If any of the affected taxing entities have expressed written objections or concerns with the proposed project area as part of these consultations, the agency shall include a response to these concerns, additional information, if any, and, at the discretion of the agency, proposed or adopted mitigation measures.

(2) As used in this subdivision:

(A) "Mitigation measures" may include the amendment of the redevelopment plan with respect to the size or location of the project area, time duration, total amount of tax increment to be received by the agency, or the proposed use, size, density, or location of development to be assisted by the agency.

(B) "Mitigation measures" shall not include obligations to make payments to any affected taxing entity.

SEC. 8. Section 33360.5 is added to the Health and Safety Code, to read:

33360.5. (a) No later than 45 days prior to the public hearing on a proposed plan adoption by an agency or the joint public hearing of the agency and the legislative body, the agency shall deliver a copy of the preliminary report and notice of the date of the public hearing to the Department of Finance and the Department of Housing and Community Development by first-class mail.

(b) Upon receiving the report, the Department of Finance shall prepare an estimate of how the proposed plan adoption will affect the General Fund. The Department of Finance shall determine whether the adoption will affect the need for school facilities.

(c) Within 21 days of the receipt of the report, the Department of Finance or the Department of Housing and Community Development may send any comments regarding the proposed plan adoption in writing to the agency and the legislative body. The agency and the legislative body shall consider these comments, if any, at the public hearing on the proposed plan adoption. If these comments are not available within the prescribed time limit, the agency and the legislative body may proceed without them.

(d) The Department of Finance or the Department of Housing and Community Development may also send their comments regarding the proposed plan adoption to the Attorney General for further action pursuant to Chapter 5 (commencing with Section 33501).

SEC. 9. Section 33367 of the Health and Safety Code is amended to read:

33367. The ordinance shall contain all of the following:

(a) The purposes and intent of the legislative body with respect to the project area.

(b) The plan incorporated by reference.

(c) A designation of the approved plan as the official redevelopment plan of the project area.

(d) The findings and determinations of the legislative body, which shall be based on clearly articulated and documented evidence, that:

(1) The project area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part.

(2) The redevelopment plan would redevelop the area in conformity with this part and in the interests of the public peace, health, safety, and welfare.

(3) The adoption and carrying out of the redevelopment plan is economically sound and feasible.

(4) The redevelopment plan is consistent with the general plan of the community, including, but not limited to, the community's housing element, which substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(5) The carrying out of the redevelopment plan would promote the public peace, health, safety, and welfare of the community and would effectuate the purposes and policy of this part.

(6) The condemnation of real property, if provided for in the redevelopment plan, is necessary to the execution of the redevelopment plan and adequate provisions have been made for payment for property to be acquired as provided by law.

(7) The agency has a feasible method or plan for the relocation of families and persons displaced from the project area, if the redevelopment plan may result in the temporary or permanent displacement of any occupants of housing facilities in the project area.

(8) (A) There are, or shall be provided, in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons displaced from the project area, decent, safe, and sanitary dwellings equal in number to the number of and available to the displaced families and persons and reasonably accessible to their places of employment.

(B) Families and persons shall not be displaced prior to the adoption of a relocation plan pursuant to Sections 33411 and 33411.1. Dwelling units housing persons and families of low or moderate income shall not be removed or destroyed prior to the adoption of a replacement housing plan pursuant to Sections 33334.5, 33413, and 33413.5.

(9) All noncontiguous areas of a project area are either blighted or necessary for effective redevelopment and are not included for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion.

(10) Inclusion of any lands, buildings, or improvements which are not detrimental to the public health, safety, or welfare is necessary for the effective redevelopment of the area of which they are a part; that any area included is necessary for effective redevelopment and is not included for the purpose of obtaining the allocation of tax increment revenues from the area pursuant to Section 33670 without other substantial justification for its inclusion.

(11) The elimination of blight and the redevelopment of the project area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the agency.

(12) The project area is predominantly urbanized, as defined by subdivision (b) of Section 33320.1.

(13) The time limitation and, if applicable, the limitation on the number of dollars to be allocated to the agency that are contained in the plan are reasonably related to the proposed projects to be implemented in the project area and to the ability of the agency to eliminate blight within the project area.

(14) The implementation of the redevelopment plan will improve or alleviate the physical and economic conditions of blight in the project area, as described in the report prepared pursuant to Section 33352.

(e) A statement that the legislative body is satisfied that permanent housing facilities will be available within three years from the time occupants of the project area are displaced and that, pending the development of the facilities, there will be available to the displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

SEC. 10. Section 33378 of the Health and Safety Code is amended to read:

33378. (a) With respect to any ordinance that is subject to referendum pursuant to Sections 33365 and 33450, the language of the statement of the ballot measure shall set forth with clarity

and in language understandable to the average person that a “Yes” vote is a vote in favor of adoption or amendment of the redevelopment plan and a “No” vote is a vote against the adoption or amendment of the redevelopment plan.

(b) (1) Notwithstanding any other provision of law, including the charter of any city or city and county, referendum petitions circulated in cities or counties over 500,000 in population shall bear valid signatures numbering not less than 10 percent of the total votes cast within the city or county for Governor at the last gubernatorial election.

(2) Notwithstanding any other provision of law, including the charter of any city or city and county, or Section 9242 of the Elections Code, the referendum petitions of all cities and counties shall be submitted to the clerk of the legislative body within 90 days of the adoption of an ordinance subject to referendum under this act.

(c) With respect to any ordinance that is subject to referendum pursuant to Sections 33365 and 33450 and either provides for tax-increment financing pursuant to Section 33670 or expands a project area that is subject to tax-increment financing, the referendum measure shall include, in the ballot pamphlet, an analysis by the county auditor-controller and, at the option of the legislative body, a separate analysis by the agency, of the redevelopment plan or amendment that will include both of the following:

(1) An estimate of the potential impact on property taxes per each ten thousand dollars (\$10,000) of assessed valuation for taxpayers located in the city or county, as the case may be, outside the redevelopment project area during the life of the redevelopment project.

(2) An estimate of what would happen to the project area in the absence of the redevelopment project or in the absence of the proposed amendment to the plan.

SEC. 11. Section 33445 of the Health and Safety Code is amended to read:

33445. (a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned either within or without the

project area, if the legislative body determines all of the following:

(1) That the buildings, facilities, structures, or other improvements are of benefit to the project area or the immediate neighborhood in which the project is located, regardless of whether the improvement is within another project area, or in the case of a project area in which substantially all of the land is publicly owned that the improvement is of benefit to an adjacent project area of the agency.

(2) That no other reasonable means of financing the buildings, facilities, structures, or other improvements, are available to the community.

(3) That the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements will assist in the elimination of one or more blighting conditions inside the project area or provide housing for low- or moderate-income persons, and is consistent with the implementation plan adopted pursuant to Section 33490.

(b) The determinations by the agency and the local legislative body pursuant to subdivision (a) shall be final and conclusive. For redevelopment plans, and amendments to those plans which add territory to a project, adopted after October 1, 1976, acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan. A redevelopment agency shall not pay for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned. Normal maintenance or operations do not include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements that are publicly owned otherwise undertaken pursuant to this section.

(c) When the value of the land or the cost of the installation and construction of the building, facility, structure, or other improvement, or both, has been, or will be, paid or provided for initially by the community or other public corporation, the agency may enter into a contract with the community or other public corporation under which it agrees to reimburse the community or other public corporation for all or part of the value of the land or all or part of the cost of the building, facility,

structure, or other improvement, or both, by periodic payments over a period of years.

(d) The obligation of the agency under the contract shall constitute an indebtedness of the agency for the purpose of carrying out the redevelopment project for the project area, which indebtedness may be made payable out of taxes levied in the project area and allocated to the agency under subdivision (b) of Section 33670 or out of any other available funds.

(e) In a case where the land has been or will be acquired by, or the cost of the installation and construction of the building, facility, structure, or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement that has been or will be leased to the community, the contract may be made with, and the reimbursement may be made payable to, the community.

(f) With respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4,000,000 persons or more, the agency shall, in order to exercise the powers granted by this section, enter into an agreement with the rapid transit district that includes the county, or a portion thereof, in which agreement the rapid transit district shall be given all of the following responsibilities:

(1) To participate with the other parties to the agreement to design, determine the location and extent of the necessary rights-of-way for, and construct, the transportation, collection, and distribution systems and related peripheral parking structures and facilities.

(2) To operate and maintain the transportation, collection, and distribution systems and related peripheral parking structures and facilities in accordance with the rapid transit district's outstanding agreements and the agreement required by this paragraph.

(g) (1) Notwithstanding any other authority granted in this section, an agency shall not pay for, either directly or indirectly, with tax increment funds the construction, including land acquisition, related site clearance, and design costs, or rehabilitation of a building that is, or that will be used as, a city hall or county administration building.

(2) This subdivision shall not preclude an agency from making payments to construct, rehabilitate, or replace a city hall if an agency does any of the following:

(A) Allocates tax increment funds for this purpose during the 1988–89 fiscal year and each fiscal year thereafter in order to comply with federal and state seismic safety and accessibility standards.

(B) Uses tax increment funds for the purpose of rehabilitating or replacing a city hall that was seriously damaged during an earthquake that was declared by the President of the United States to be a natural disaster.

(C) Uses the proceeds of bonds, notes, certificates of participation, or other indebtedness that was issued prior to January 1, 1994, for the purpose of constructing or rehabilitating a city hall, as evidenced by documents approved at the time of the issuance of the indebtedness.

SEC. 12. Section 33451.5 is added to the Health and Safety Code, to read:

33451.5. (a) This section shall apply only to proposed plan amendments that would do any of the following:

(1) Change the limitation on the number of dollars of taxes which may be divided and allocated to the redevelopment agency.

(2) Change the limit on the amount of bonded indebtedness that can be outstanding at one time.

(3) Change the time limit on the establishing of loans, advances, and indebtedness to be paid with the proceeds of property taxes received pursuant to Section 33670.

(4) Change the time limit on the effectiveness of the redevelopment plan.

(5) Change the boundaries of the project area.

(6) Merge existing project areas.

(b) No later than 45 days prior to the public hearing on a proposed plan amendment by an agency or the joint public hearing of the agency and the legislative body, the agency shall notify the Department of Finance and the Department of Housing and Community Development by first-class mail of the public hearing, the date of the public hearing, and the proposed amendment. This notice shall be accompanied by the report required to be prepared pursuant to subdivision (c).

(c) No later than 45 days prior to the public hearing on a proposed plan amendment by the agency or the joint public hearing by the agency and the legislative body, the agency shall prepare a report that contains all of the following:

(1) A map of the project area that identifies the portion, if any, of the project area that is no longer blighted, the portion of the project area that is blighted, and the portion of the project area that contains necessary and essential parcels for the elimination of the remaining blight.

(2) A description of the remaining blight.

(3) A description of the projects or programs proposed to eliminate any remaining blight.

(4) A description of how these projects or programs will improve the conditions of blight.

(5) The reasons why the projects or programs cannot be completed without the plan amendment.

(6) The proposed method of financing these programs or projects. This description shall include the amount of tax increment revenues that is projected to be generated as a result of the proposed plan amendment, including amounts projected to be deposited into the Low and Moderate Income Housing Fund and amounts to be paid to the affecting taxing entities. This description shall also include sources and amounts of moneys other than tax increment revenues that are available to finance these projects or programs. This description shall also include the reasons that the remaining blight cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without the use of the tax increment revenues available to the agency because of the proposed amendment.

(7) An amendment to the agency's implementation plan that includes, but is not limited to, the agency's housing responsibilities pursuant to Section 33490. However, the agency shall not be required to hold a separate public hearing on the implementation plan pursuant to subdivision (d) of Section 33490 in addition to the public hearing on the amendment to the redevelopment plan.

(8) A new neighborhood impact report if required by subdivision (m) of Section 33352.

(d) Upon receiving the report, the Department of Finance shall prepare an estimate of how the proposed plan amendment will

affect the General Fund. The Department of Finance shall determine whether the amendment will affect the need for school facilities.

(e) Within 21 days of the receipt of the report, the Department of Finance or the Department of Housing and Community Development may send any comments regarding the proposed plan amendment in writing to the agency and the legislative body. The agency and the legislative body shall consider these comments, if any, at the public hearing on the proposed plan amendment. If these comments are not available within the prescribed time limit, the agency and the legislative body may proceed without them.

(f) The Department of Finance or the Department of Housing and Community Development may also send their comments regarding the proposed plan amendment to the Attorney General for further action pursuant to Chapter 5 (commencing with Section 33501).

SEC. 13. Section 33485 of the Health and Safety Code is amended to read:

33485. The Legislature finds and declares that the provisions of this part, which require that taxes allocated pursuant to Section 16 of Article XVI of the California Constitution and Section 33670 be applied to the project area in which those taxes are generated, are designed to assure (1) that project areas are terminated when the redevelopment of those areas has been completed and (2) that the increased revenues that result from redevelopment accrue to the benefit of affected taxing jurisdictions at the completion of redevelopment activities in a project area. Mergers of project areas are desirable as a matter of public policy if they result in substantial benefit to the public and if they contribute to the revitalization of blighted areas through the increased economic vitality of those areas and through increased and improved housing opportunities in or near such areas. The Legislature further finds and declares that it is necessary to enact a statute that sets out uniform statewide standards for merger of project areas to assure that those mergers serve a vital public purpose.

SEC. 14. Section 33486 of the Health and Safety Code is amended to read:

33486. (a) For the purpose of allocating taxes pursuant to Section 33670 and subject to the provisions of this article, redevelopment project areas under the jurisdiction of a redevelopment agency for which redevelopment plans have been adopted pursuant to Article 5 (commencing with Section 33360), may be merged, without regard to contiguity of the areas, by the amendment of each affected redevelopment plan as provided in Article 12 (commencing with Section 33450). Before adopting the ordinance amending each affected redevelopment plan, the legislative body shall find, based on substantial evidence, that both of the following conditions exist:

- (1) Significant blight remains within one of the project areas.
- (2) This blight cannot be eliminated without merging the project areas and the receipt of property taxes.

(b) (1) Except as provided in paragraph (2), taxes attributable to each project area merged pursuant to this section that are allocated to the redevelopment agency pursuant to Section 33670 may be allocated to the entire merged project area for the purpose of paying the principal of, and interest on, indebtedness incurred by the redevelopment agency to finance or refinance, in whole or in part, the merged redevelopment project.

(2) If the redevelopment agency has, prior to merger of redevelopment project areas, incurred any indebtedness on account of a constituent project area so merged, taxes attributable to that area that are allocated to the agency pursuant to Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging the taxes from the constituent project area.

(c) After the merger of redevelopment projects pursuant to subdivision (a), the clerk of the legislative body shall transmit a copy of the ordinance amending the plans for projects to be merged to the governing body of each of the taxing agencies that receives property taxes from or levies property taxes upon any property in the project.

SEC. 15. Section 33500 of the Health and Safety Code is amended to read:

33500. (a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at

any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations.

SEC. 16. Section 33501 of the Health and Safety Code is amended to read:

33501. (a) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

(b) Notwithstanding subdivision (a), an action to determine the validity of a redevelopment plan, or amendment to a redevelopment plan, may be brought within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(c) For the purposes of protecting the interests of the state, the Attorney General and the Department of Finance are interested persons pursuant to Section 863 of the Code of Civil Procedure in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

(d) For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in

Sections 422 and 422.5 of the Revenue and Taxation Code, or lands that are in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, the Department of Conservation, the county agricultural commissioner, the county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice, are interested persons pursuant to Section 863 of the Code of Civil Procedure, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

SEC. 17. Section 33501.1 is added to the Health and Safety Code, to read:

33501.1. Notwithstanding Chapter 9 (commencing with Section 860) of Title 10 of the Code of Civil Procedure, the Attorney General may, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, intervene as of right in an action specified in Section 33501 challenging the validity of any finding and determination that a project area is blighted. The Attorney General may seek permissive intervention pursuant to subdivision (a) of Section 387 of the Code of Civil Procedure in any other action brought pursuant to Section 33501.

SEC. 18. Section 33501.2 is added to the Health and Safety Code, to read:

33501.2. (a) An action shall not be brought pursuant to Section 33501 unless the alleged grounds for noncompliance with this division were presented to the agency or the legislative body orally or in writing by any person before the close of the public hearing required by this division.

(b) A person shall not bring an action pursuant to Section 33501 unless a person objected to the decision of the agency or the legislative body before the close of the public hearing required by this division.

(c) This section does not preclude any organization formed after the approval of a project from bringing an action pursuant to Section 33501 if a member of that organization has complied with subdivision (b).

(d) This section does not apply to the Attorney General.

(e) This section does not apply to any alleged grounds for noncompliance with this division for which there was no public hearing or other opportunity for members of the public to raise

those objections orally or in writing before the decision by the agency or the legislative body, or if the agency or the legislative body failed to give the notice required by law.

SEC. 19. Section 33501.3 is added to the Health and Safety Code, to read:

33501.3. If an action specified in Section 33501 challenging the validity of any finding and determination that the project area is blighted is filed in any court, each party filing any pleading or brief with the court in that proceeding shall serve, within three days of the filing with the court, a copy of that pleading or brief on the Attorney General. Relief, temporary or permanent, shall not be granted to a party unless that party files proof with the court showing that it has complied with this section. A court may, by court order, allow a party to serve the Attorney General after the three-day period, but only upon showing of good cause for not complying with the three-day notice requirement, and that late service will not prejudice the Attorney General's ability to review, and possibly participate in, the action.

SEC. 20. Section 33501.7 is added to the Health and Safety Code, to read:

33501.7. Notwithstanding any other provision of law, an agency or legislative body shall not permit or require a property owner or a real party in interest to indemnify the agency or the legislative body against actions brought pursuant to Section 33501 to challenge the adoption or amendment of a redevelopment plan, as a condition of adopting or amending a redevelopment plan.

SEC. 21. It is the intent of the Legislature by amending Section 33501 of the Health and Safety Code in Section 10 of this act to determine that the Attorney General and the Department of Finance are interested persons pursuant to Section 863 of the Code of Civil Procedure in actions specified in subdivision (c) of Section 33501 of the Health and Safety Code. It is not the intent of the Legislature to preclude a court from exercising its discretion to find that the Attorney General or the Department of Finance are interested persons in other actions brought pursuant to Section 33501 of the Health and Safety Code. It is the intent of the Legislature that no court should consider, in any manner, the fact that the Legislature did not determine that the Attorney General and the Department of

Finance are interested persons in other actions brought pursuant to Section 33501 of the Health and Safety Code.

SEC. 22. In enacting Section 17 of this act to add Section 33501.1 to the Health and Safety Code, it is the intent of the Legislature to create for the Attorney General an exception to the ruling in *Green v. Community Redevelopment Agency* (1979) 96 Cal.App.3d 491.

SEC. 23. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2006

Governor